

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 339

HOUSE BILL 2353

AN ACT

AMENDING SECTIONS 41-1402, 41-1421, 41-1442, 41-1461 AND 41-1463, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 9, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-1466 AND 41-1467; AMENDING SECTION 41-1471, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1472, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 9, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 41-1472; AMENDING SECTIONS 41-1491, 41-1491.05, 41-1491.15, 41-1491.16, 41-1491.17, 41-1491.19, 41-1491.20 AND 41-1491.21, ARIZONA REVISED STATUTES; RELATING TO CIVIL RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1402, Arizona Revised Statutes, is amended to
3 read:

4 41-1402. Powers and duties of the division

5 A. The division may:

6 1. Employ an executive director for the board and other necessary
7 personnel whose compensation shall be as determined pursuant to section
8 38-611.

9 2. Subject to the provisions and restrictions of this chapter,
10 cooperate with and enter into agreements with the United States equal
11 employment opportunity commission, the United States department of housing
12 and urban development and other United States agencies interested in
13 practices governed by this chapter, accept funds MONIES from such THOSE
14 agencies and carry out and perform the covenants and conditions of any
15 written agreement with such THOSE agencies not inconsistent with or beyond
16 the provisions of this chapter.

17 3. Cooperate with and enter into agreements with state and local
18 agencies not inconsistent with or beyond the provisions of this chapter.

19 4. Intervene in a civil action brought under section 41-1481 by a
20 complainant against a defendant other than the state.

21 5. After studying recommendations of the board, issue, amend or
22 rescind procedural rules and regulations to carry out the provisions of this
23 chapter.

24 6. Make periodic surveys of the existence and effect of discrimination
25 because of race, color, religion, sex, age, handicap DISABILITY, FAMILIAL
26 STATUS or national origin in the enjoyment of civil rights by any person
27 within this state as prescribed by this chapter.

28 7. Foster, through community effort, in cooperation with both public
29 and private groups, the elimination of discrimination based on race, color,
30 religion, sex, age, handicap DISABILITY, FAMILIAL STATUS or national origin.

31 8. Issue publications of results of studies, investigations and
32 research as in its judgment will tend to promote goodwill and the elimination
33 of discrimination between persons because of race, color, religion, sex, age,
34 handicap DISABILITY, FAMILIAL STATUS or national origin.

35 9. Furnish persons subject to the provisions of this chapter with such
36 assistance as may be reasonably necessary to further compliance with the
37 provisions of this chapter.

38 B. The division shall:

39 1. Administer the provisions of this chapter.

40 2. Report from time to time, but not less than once a year in
41 December, to the legislature and the governor, describing its activities and
42 accomplishments during the year, and file with each REPORT a copy of all
43 recommendations of the division as to additional remedial action by
44 legislative enactment or otherwise.

1 Sec. 2. Section 41-1421, Arizona Revised Statutes, is amended to read:

2 41-1421. Voting rights; definitions

3 A. A citizen of the United States who is a resident of the THIS state,
4 ~~of Arizona~~ and WHO is qualified to become an elector as prescribed by the
5 terms of section 16-101, and who is otherwise qualified by law to vote at
6 any election by or in the THIS state, OR ANY county, city, town, school
7 district or any other political subdivision, ~~shall be~~ OF THIS STATE IS
8 entitled TO and SHALL BE allowed to vote at ~~all~~ such THOSE elections without
9 discrimination because of race, color, religion, sex, ancestry or national
10 origin.

11 B. A QUALIFIED INDIVIDUAL WITH A DISABILITY SHALL NOT BE EXCLUDED FROM
12 VOTING OR BE DISCRIMINATED IN VOTING UNDER THIS SECTION BY REASON OF THE
13 DISABILITY.

14 C. THIS STATE OR ANY COUNTY, CITY, TOWN, SCHOOL DISTRICT OR OTHER
15 POLITICAL SUBDIVISION OF THIS STATE THAT MAKES REASONABLE MODIFICATIONS TO
16 RULES, POLICIES OR PRACTICES, REMOVES ARCHITECTURAL AND COMMUNICATION
17 BARRIERS AND PROVIDES AUXILIARY AIDS AND SERVICES TO PERSONS WITH
18 DISABILITIES HAS COMPLIED WITH THIS ARTICLE.

19 D. COMPLIANCE WITH TITLE II OF THE AMERICANS WITH DISABILITIES ACT (42
20 UNITED STATES CODE SECTIONS 12131 THROUGH 12134) AND ITS IMPLEMENTING
21 REGULATIONS AND THE VOTER ACCESSIBILITY FOR THE ELDERLY AND THE HANDICAPPED
22 ACT (42 UNITED STATES CODE SECTIONS 1977ee THROUGH 1977ee-6) IS DEEMED IN
23 COMPLIANCE WITH THIS ARTICLE.

24 E. FOR THE PURPOSES OF THIS SECTION:

25 1. "DISABILITY" MEANS, WITH RESPECT TO AN INDIVIDUAL, ANY OF THE
26 FOLLOWING:

27 (a) A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR
28 MORE OF THE MAJOR LIFE ACTIVITIES OF THE INDIVIDUAL.

29 (b) A RECORD OF SUCH A PHYSICAL OR MENTAL IMPAIRMENT.

30 (c) BEING REGARDED AS HAVING SUCH A PHYSICAL OR MENTAL IMPAIRMENT.

31 2. "QUALIFIED INDIVIDUAL WITH A DISABILITY" MEANS AN INDIVIDUAL WITH
32 A DISABILITY WHO, WITH OR WITHOUT REASONABLE MODIFICATIONS TO RULES, POLICIES
33 OR PRACTICES, THE REMOVAL OF ARCHITECTURAL AND COMMUNICATION BARRIERS OR THE
34 PROVISION OF AUXILIARY AIDS AND SERVICES, MEETS THE ELIGIBILITY REQUIREMENTS
35 PRESCRIBED IN SUBSECTION A OF THIS SECTION.

36 Sec. 3. Section 41-1442, Arizona Revised Statutes, is amended to read:

37 41-1442. Discrimination in places of public accommodation;
38 exceptions

39 A. Discrimination in places of public accommodation against any person
40 because of race, color, creed RELIGION, SEX, national origin or ancestry is
41 contrary to the policy of this state and shall be deemed unlawful.

42 B. No person shall, directly or indirectly, refuse to, withhold from,
43 or deny to any person, nor aid in or incite such refusal to deny or withhold,
44 accommodations, advantages, facilities or privileges thereof because of race,
45 color, creed RELIGION, SEX, national origin, or ancestry, nor shall

1 distinction be made with respect to any person based on race, color, creed
2 RELIGION, SEX, national origin, or ancestry in connection with the price or
3 quality of any item, goods or services offered by or at any place of public
4 accommodation.

5 C. Any person WHO IS under the influence of alcohol or narcotics, or
6 who is guilty of boisterous conduct, or who is of lewd or immoral character,
7 or who is physically violent, or who violates any regulation of any place
8 of public accommodation that applies to all persons regardless of race,
9 color, creed RELIGION, SEX, national origin, or ancestry, may be excluded
10 from any such place of public accommodation and nothing in this article shall
11 be considered to limit the right of such exclusion.

12 Sec. 4. Section 41-1461, Arizona Revised Statutes, is amended to read:

13 41-1461. Definitions

14 In this article, unless the context otherwise requires:

15 1. "COVERED ENTITY" MEANS AN EMPLOYER, EMPLOYMENT AGENCY, LABOR
16 ORGANIZATION OR JOINT LABOR-MANAGEMENT COMMITTEE.

17 2. "Handicap DISABILITY" means, with respect to an individual,
18 except any impairment caused by current or recent use of alcohol or ILLEGAL
19 drugs, any of the following:

20 (a) A physical OR MENTAL impairment that substantially limits one or
21 more of the major life activities of the individual.

22 (b) A record of SUCH a physical OR MENTAL impairment that
23 substantially limits one or more of the major life activities of the
24 individual.

25 (c) Being regarded as having SUCH a physical OR MENTAL impairment that
26 substantially limits one or more of the major life activities of the
27 individual.

28 3. "Employee":

29 (a) Means an individual employed by an employer. , except that
30 employee

31 (b) Does not include an elected public official of the THIS state or
32 any political subdivision of the THIS state, any person chosen by such
33 officer AN ELECTED OFFICIAL to be on such officer's THE ELECTED OFFICIAL'S
34 personal staff, an appointee on the policymaking level or an immediate
35 adviser with respect to the exercise of the constitutional or legal powers
36 of the office, unless such THE person or appointee is subject to the civil
37 service laws of the THIS state or any political subdivision of the THIS
38 state.

39 4. "Employer":

40 (a) Means a person who has fifteen or more employees for each working
41 day in each of twenty or more calendar weeks in the current or preceding
42 calendar year, and any agent of such THAT person, except that to the extent
43 that any person is alleged to have committed any acts ACT of sexual
44 harassment, employer means, for purposes of administrative and civil actions

1 regarding such THOSE allegations of sexual harassment, a person who has one
2 or more employees in the current or preceding calendar year. ~~, but such term~~

3 (b) Does not include either:

4 ~~(a)~~ (i) The United States or any department or agency thereof OF THE
5 UNITED STATES, a corporation wholly owned by the government of the United
6 States, or an Indian tribe.

7 ~~(b)~~ (ii) A bona fide private membership club, ~~(other than a labor~~
8 ~~organization,)~~ which THAT is exempt from taxation under section 501(c) of
9 the internal revenue code of 1954.

10 3. 5. "Employment agency" means any person regularly undertaking with
11 or without compensation to procure employees for an employer or to procure
12 for employees opportunities to work for an employer and includes an agent of
13 such a THAT person.

14 5. 6. "Labor organization":

15 (a) Means a labor organization and any agent of such an A LABOR
16 organization. and

17 (b) Includes:

18 (i) Any organization of any kind, any agency or employee
19 representation committee, group, association or plan so engaged in which
20 fifteen or more employees participate and which THAT exists for the purpose,
21 in whole or in part, of dealing with employers concerning grievances, labor
22 disputes, wages, rates of pay, hours or other terms or conditions of
23 employment. , and

24 (ii) Any conference, general committee, joint or system board or joint
25 council so engaged which THAT is subordinate to a national or international
26 labor organization.

27 6. 7. "Person" means one or more individuals, governmental agencies,
28 political subdivisions, labor unions, partnerships, associations,
29 corporations, legal representatives, mutual companies, joint-stock companies,
30 trusts, unincorporated organizations, trustees, trustees in bankruptcy or
31 receivers.

32 7. 8. "Qualified handicapped individual WITH A DISABILITY" means a
33 person with a handicap DISABILITY who, with OR WITHOUT reasonable
34 accommodation, is capable of performing the essential functions of the
35 particular job in question within the normal operation of the employer's
36 business in terms of physical requirements, education, skill and experience
37 EMPLOYMENT POSITION THAT THE INDIVIDUAL HOLDS OR DESIRES.

38 8. 9. "Reasonable accommodation" means an accommodation which does
39 not INCLUDES:

40 (a) Unduly disrupt or interfere with the employer's normal operations.
41 (b) Threaten the health or safety of the handicapped individual or
42 others.

43 (c) Contradict a business necessity of the employer.

1 ~~(d) Impose undue hardship on the employer, based on the size of the~~
2 ~~employer's business, the type of business, the financial resources of the~~
3 ~~employer and the estimated cost and extent of the accommodation.~~

4 (a) MAKING EXISTING FACILITIES USED BY EMPLOYEES READILY ACCESSIBLE
5 TO AND USABLE BY INDIVIDUALS WITH DISABILITIES.

6 (b) JOB RESTRUCTURING, PART-TIME OR MODIFIED WORK SCHEDULES,
7 REASSIGNMENT TO A VACANT POSITION, ACQUISITION OR MODIFICATION OF EQUIPMENT
8 OR DEVICES, APPROPRIATE ADJUSTMENT OR MODIFICATION OF EXAMINATIONS, TRAINING
9 MATERIALS OR POLICIES, THE PROVISION OF QUALIFIED READERS OR INTERPRETERS AND
10 OTHER SIMILAR ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES.

11 9. 10. "Religion" means all aspects of religious observance and
12 practice, as well as belief. Unlawful practices as prohibited by this
13 article shall include practices with respect to religion unless an employer
14 demonstrates that he THE EMPLOYER is unable to reasonably accommodate to an
15 employee's or prospective employee's religious observance or practice without
16 undue hardship on the conduct of the employer's business.

17 11. "UNDUE HARDSHIP":

18 (a) MEANS AN ACTION REQUIRING SIGNIFICANT DIFFICULTY OR EXPENSE WHEN
19 CONSIDERED IN LIGHT OF THE FACTORS SET FORTH IN SUBDIVISION (b) OF THIS
20 PARAGRAPH.

21 (b) WHEN DETERMINING WHETHER AN ACCOMMODATION WOULD IMPOSE AN UNDUE
22 HARDSHIP ON A COVERED ENTITY, FACTORS TO BE CONSIDERED INCLUDE:

23 (i) THE NATURE AND COST OF THE ACCOMMODATIONS NEEDED UNDER THIS
24 ARTICLE.

25 (ii) THE OVERALL FINANCIAL RESOURCES OF THE FACILITY OR FACILITIES
26 INVOLVED IN THE PROVISION OF THE REASONABLE ACCOMMODATION, THE NUMBER OF
27 PERSONS EMPLOYED AT THE FACILITY, THE EFFECT ON EXPENSES AND RESOURCES OF THE
28 FACILITY AND ANY OTHER IMPACT OF THE ACCOMMODATION ON THE OPERATION OF THE
29 FACILITY.

30 (iii) THE OVERALL FINANCIAL RESOURCES OF THE COVERED ENTITY, THE
31 OVERALL SIZE OF THE BUSINESS OF THE COVERED ENTITY WITH RESPECT TO THE NUMBER
32 OF ITS EMPLOYEES AND THE NUMBER, TYPE AND LOCATION OF ITS FACILITIES.

33 (iv) THE TYPE OF OPERATION OR OPERATIONS OF THE COVERED ENTITY,
34 INCLUDING THE COMPOSITION, STRUCTURE AND FUNCTIONS OF THE WORKFORCE OF THE
35 COVERED ENTITY.

36 (v) THE GEOGRAPHIC SEPARATENESS AND THE ADMINISTRATIVE OR FISCAL
37 RELATIONSHIP OF THE FACILITY TO THE COVERED ENTITY.

38 Sec. 5. Section 41-1463, Arizona Revised Statutes, is amended to read:

39 41-1463. Discrimination; unlawful practices; definition

40 A. Nothing contained in this article shall be interpreted to require
41 that the less qualified be preferred over the better qualified simply because
42 of race, color, religion, sex, age, handicap DISABILITY or national origin.

43 B. It is an unlawful employment practice for an employer:

44 1. To fail or refuse to hire or to discharge any individual or
45 otherwise to discriminate against any individual with respect to his THE

1 INDIVIDUAL'S compensation, terms, conditions or privileges of employment
2 because of such THE individual's race, color, religion, sex, age, handicap
3 DISABILITY or national origin.

4 2. To limit, segregate or classify employees or applicants for
5 employment in any way which would deprive or tend to deprive any individual
6 of employment opportunities or otherwise adversely affect the individual's
7 status as an employee, because of such THE individual's race, color,
8 religion, sex, age, handicap DISABILITY or national origin.

9 ~~3. To fail or refuse to reasonably accommodate an individual's~~
10 ~~handicap.~~

11 ~~4.~~ 3. To fail or refuse to hire, to discharge, or to otherwise
12 discriminate against any individual based on the results of a genetic test
13 received by the employer, notwithstanding subsection H- 1, paragraph 2 of
14 this section.

15 C. It is an unlawful employment practice for an employment agency to
16 fail or refuse to refer for employment or otherwise to discriminate against
17 any individual because of such THE individual's race, color, religion, sex,
18 age, handicap DISABILITY or national origin or to classify or refer for
19 employment any individual on the basis of his THE INDIVIDUAL'S race, color,
20 religion, sex, age, DISABILITY or national origin.

21 D. It is an unlawful employment practice for a labor organization:

22 1. To exclude or to expel from its membership or otherwise to
23 discriminate against any individual because of such THE individual's race,
24 color, religion, sex, age, handicap DISABILITY or national origin.

25 2. To limit, segregate or classify its membership or applicants for
26 membership or to classify or fail or refuse to refer for employment any
27 individual in any way which would deprive or tend to deprive such THE
28 individual of employment opportunities or would limit such THOSE employment
29 opportunities or otherwise adversely affect the individual's status as an
30 employee or as an applicant for employment because of such THE individual's
31 race, color, religion, sex, age, handicap DISABILITY or national origin.

32 3. To cause or attempt to cause an employer to discriminate against
33 an individual in violation of this section.

34 ~~4. To fail or refuse to reasonably accommodate an individual's~~
35 ~~handicap.~~

36 E. It is an unlawful employment practice for any employer, labor
37 organization or joint labor-management committee controlling apprenticeship
38 or other training or retraining programs, including on-the-job training
39 programs, to discriminate against any individual because of such THE
40 individual's race, color, religion, sex, handicap AGE, DISABILITY or national
41 origin in admission to or employment in any program established to provide
42 apprenticeship or other training and, if the individual is handicapped AN
43 OTHERWISE QUALIFIED INDIVIDUAL WITH A DISABILITY, to fail or refuse to
44 reasonably accommodate the individual's handicap DISABILITY.

1 F. WITH RESPECT TO AN INDIVIDUAL WITH A DISABILITY, IT IS AN UNLAWFUL
2 EMPLOYMENT PRACTICE FOR A COVERED ENTITY TO:

3 1. PARTICIPATE IN ANY CONTRACTUAL OR OTHER ARRANGEMENT OR RELATIONSHIP
4 THAT HAS THE EFFECT OF SUBJECTING A QUALIFIED INDIVIDUAL WITH A DISABILITY
5 WHO APPLIES WITH OR WHO IS EMPLOYED BY THE COVERED ENTITY TO UNLAWFUL
6 EMPLOYMENT DISCRIMINATION.

7 2. USE STANDARDS, CRITERIA OR METHODS OF ADMINISTRATION THAT HAVE THE
8 EFFECT OF DISCRIMINATING ON THE BASIS OF DISABILITY OR THAT PERPETUATE THE
9 DISCRIMINATION OF OTHERS WHO ARE SUBJECT TO COMMON ADMINISTRATIVE CONTROL.

10 3. EXCLUDE OR OTHERWISE DENY EQUAL JOBS OR BENEFITS TO A QUALIFIED
11 INDIVIDUAL BECAUSE OF THE KNOWN DISABILITY OF AN INDIVIDUAL WITH WHOM THE
12 QUALIFIED INDIVIDUAL IS KNOWN TO HAVE A RELATIONSHIP OR ASSOCIATION.

13 4. NOT MAKE REASONABLE ACCOMMODATIONS TO THE KNOWN PHYSICAL OR MENTAL
14 LIMITATIONS OF AN OTHERWISE QUALIFIED INDIVIDUAL WITH A DISABILITY WHO IS AN
15 APPLICANT OR EMPLOYEE UNLESS THE COVERED ENTITY CAN DEMONSTRATE THAT THE
16 ACCOMMODATION WOULD IMPOSE AN UNDUE HARDSHIP ON THE OPERATION OF THE BUSINESS
17 OF THE COVERED ENTITY.

18 5. DENY EMPLOYMENT OPPORTUNITIES TO A JOB APPLICANT OR EMPLOYEE WHO
19 IS AN OTHERWISE QUALIFIED INDIVIDUAL WITH A DISABILITY IF THE DENIAL IS BASED
20 ON THE NEED OF THE COVERED ENTITY TO MAKE REASONABLE ACCOMMODATION TO THE
21 PHYSICAL OR MENTAL IMPAIRMENT OF THE APPLICANT OR EMPLOYEE.

22 6. USE QUALIFICATION STANDARDS, EMPLOYMENT TESTS OR OTHER SELECTION
23 CRITERIA THAT SCREEN OUT OR TEND TO SCREEN OUT AN INDIVIDUAL WITH A
24 DISABILITY OR A CLASS OF INDIVIDUALS WITH DISABILITIES, UNLESS THE STANDARD,
25 TEST OR OTHER SELECTION CRITERIA, AS USED BY THE COVERED ENTITY, IS SHOWN TO
26 BE JOB-RELATED FOR THE POSITION IN QUESTION AND IS CONSISTENT WITH BUSINESS
27 NECESSITY.

28 7. FAIL TO SELECT AND ADMINISTER TESTS RELATING TO EMPLOYMENT IN THE
29 MOST EFFECTIVE MANNER TO ENSURE THAT, WHEN THE TEST IS ADMINISTERED TO A JOB
30 APPLICANT OR EMPLOYEE WHO HAS A DISABILITY THAT IMPAIRS SENSORY, MANUAL OR
31 SPEAKING SKILLS, THE TEST RESULTS ACCURATELY REFLECT THE SKILLS, APTITUDE OR
32 WHATEVER OTHER FACTOR OF THE APPLICANT OR EMPLOYEE THAT THE TEST PURPORTS TO
33 MEASURE, RATHER THAN REFLECTING THE IMPAIRED SENSORY, MANUAL OR SPEAKING
34 SKILLS OF THE APPLICANT OR EMPLOYEE, EXCEPT IF THE SKILLS ARE THE FACTORS
35 THAT THE TEST PURPORTS TO MEASURE.

36 F. G. Notwithstanding any other provision of this article, it is not
37 an unlawful employment practice:

38 1. For an employer to hire and employ employees, for an employment
39 agency to classify or refer for employment any individual, for a labor
40 organization to classify its membership or classify or refer for employment
41 any individual, or for an employer, labor organization or joint
42 labor-management committee controlling apprenticeship or other training or
43 retraining programs to admit or employ any individual in any such program,
44 on the basis of the individual's religion, sex or national origin in those
45 certain instances when religion, sex or national origin is a bona fide

1 occupational qualification reasonably necessary to the normal operation of
2 that particular business or enterprise.

3 2. For any school, college, university or other educational
4 institution or institution of learning to hire and employ employees of a
5 particular religion if such THE school, college, university or other
6 educational institution or institution of learning is in whole or in
7 substantial part owned, supported, controlled or managed by a particular
8 religion or religious corporation, association or society, or if the
9 curriculum of such THE school, college, university or other educational
10 institution or institution of learning is directed toward the propagation of
11 a particular religion.

12 3. For an employer to fail or refuse to hire or employ any individual
13 for any position, for an employment agency to fail or refuse to refer any
14 individual for employment in any position or for a labor organization to fail
15 or refuse to refer any individual for employment in any position, if both of
16 the following apply:

17 (a) The occupancy of such THE position or access to the premises in
18 or upon which any part of the duties of such THE position are performed or
19 are to be performed is subject to any requirement imposed in the interest of
20 the national security of the United States under any security program in
21 effect pursuant to or administered under any statute of the United States or
22 any executive order of the President of the United States.

23 (b) Such THE individual has not fulfilled or has ceased to fulfill
24 that requirement.

25 4. With respect to age, for an employer, employment agency or labor
26 organization:

27 (a) To take any action otherwise prohibited under subsection B, C or
28 D of this section if age is a bona fide occupational qualification reasonably
29 necessary to the normal operation of the particular business or if the
30 differentiation is based on reasonable factors other than age.

31 (b) To observe the terms of a bona fide seniority system or any bona
32 fide employee benefit plan such as a retirement, pension, deferred
33 compensation or insurance plan, which is not a subterfuge to evade the
34 purposes of the age discrimination provisions of this article, except that
35 no employee benefit plan may excuse the failure to hire any individual and
36 no seniority system or employee benefit plan may require or permit the
37 involuntary retirement of any individual specified by section 41-1465 because
38 of the individual's age.

39 (c) To discharge or otherwise discipline an individual for good cause.

40 ~~5. For an employer, labor organization or joint labor-management~~
41 ~~committee controlling apprenticeship or other training or retraining~~
42 ~~programs, including on-the-job training programs, to take any action~~
43 ~~otherwise prohibited by subsection E of this section with respect to~~
44 ~~a handicapped individual's handicap if the individual is not capable of~~
45 ~~participating in or completing the apprenticeship or other program or if the~~

1 ~~individual's participation in the apprenticeship or other program threatens~~
2 ~~the health or safety of other individuals or imposes undue hardship on the~~
3 ~~program in terms of costs or operating necessity.~~

4 G. H. As used in this article, "unlawful employment practice" does
5 not include any action or measure taken by an employer, labor organization,
6 joint labor-management committee or employment agency with respect to an
7 individual who is a member of the communist party of the United States or of
8 any other organization required to register as a communist-action or
9 communist-front organization by final order of the subversive activities
10 control board pursuant to the subversive activities control act of 1950.

11 H. I. Notwithstanding any other provision of this article, it is not
12 an unlawful employment practice:

13 1. For an employer to apply different standards of compensation or
14 different terms, conditions or privileges of employment pursuant to a bona
15 fide seniority or merit system or a system which measures earnings by
16 quantity or quality of production or to employees who work in different
17 locations, provided that such THESE differences are not the result of an
18 intention to discriminate because of race, color, religion, sex, handicap or
19 national origin.

20 2. For an employer to give and act upon the results of any
21 professionally developed ability test provided that such THE test, its
22 administration or action upon the results is not designed, intended or used
23 to discriminate because of race, color, religion, sex, handicap or national
24 origin.

25 3. For any employer to differentiate upon the basis of sex or handicap
26 DISABILITY in determining the amount of the wages or compensation paid or to
27 be paid to employees of such THE employer if such THE differentiation is
28 authorized by the provisions of section 6(d) or section 14 of the fair labor
29 standards act of 1938, as amended (29 United States Code section 206(d)).

30 I. J. Nothing contained in this chapter applies to any business or
31 enterprise on or near an Indian reservation with respect to any publicly
32 announced employment practice of such THE business or enterprise under which
33 a preferential treatment is given to any individual because he THE INDIVIDUAL
34 is an Indian living on or near a reservation.

35 J. K. Nothing contained in this article or article 6 of this chapter
36 requires any employer, employment agency, labor organization or joint
37 labor-management committee subject to this article to grant preferential
38 treatment to any individual or group because of the race, color, religion,
39 sex or national origin of such THE individual or group on account of an
40 imbalance which may exist with respect to the total number or percentage of
41 persons of any race, color, religion, sex or national origin employed by any
42 employer, referred or classified for employment by any employment agency or
43 labor organization, admitted to membership or classified by any labor
44 organization or admitted to or employed in any apprenticeship or other
45 training program, in comparison with the total number or percentage of

1 persons of such THAT race, color, religion, sex or national origin in any
2 community, state, section or other area, or in the available work force in
3 any community, state, section or other area.

4 K. L. Nothing in the age discrimination prohibitions of this article
5 may be construed to prohibit compulsory retirement of any employee who has
6 attained sixty-five years of age and who, for the two year period immediately
7 before retirement, is employed in a bona fide executive or high policymaking
8 position, if the employee is entitled to an immediate nonforfeitable annual
9 retirement benefit from a pension, profit sharing, savings or deferred
10 compensation plan or any combination of plans of the employer for the
11 employee, which equals, in the aggregate, at least forty-four thousand
12 dollars. In applying the retirement benefit test of this subsection, if any
13 retirement benefit is in a form other than a straight life annuity, with no
14 ancillary benefits, or if employees contribute to the plan or make rollover
15 contributions, the benefit shall be adjusted in accordance with rules adopted
16 by the division so the benefit is the equivalent of a straight life annuity,
17 with no ancillary benefits, under a plan to which employees do not contribute
18 and under which no rollover contributions are made.

19 M. A COVERED ENTITY MAY REQUIRE THAT AN INDIVIDUAL WITH A DISABILITY
20 SHALL NOT POSE A DIRECT THREAT TO THE HEALTH OR SAFETY OF OTHER INDIVIDUALS
21 IN THE WORKPLACE. FOR THE PURPOSES OF THIS SUBSECTION, "DIRECT THREAT" MEANS
22 A SIGNIFICANT RISK TO THE HEALTH OR SAFETY OF OTHERS THAT CANNOT BE
23 ELIMINATED BY REASONABLE ACCOMMODATION.

24 L. N. For the purposes of this section and section 41-1481, with
25 respect to employers or employment practices involving a handicap DISABILITY,
26 "individual" means a qualified handicapped individual WITH A DISABILITY.

27 Sec. 6. Title 41, chapter 9, article 4, Arizona Revised Statutes, is
28 amended by adding sections 41-1466 and 41-1467, to read:

29 41-1466. Medical examinations and inquiries; exception

30 A. THE PROHIBITION AGAINST DISCRIMINATION BASED ON A DISABILITY
31 INCLUDES MEDICAL EXAMINATIONS AND INQUIRIES. EXCEPT AS PROVIDED IN
32 SUBSECTION B, PARAGRAPH 2, A COVERED ENTITY SHALL NOT CONDUCT A MEDICAL
33 EXAMINATION OR MAKE INQUIRIES OF A JOB APPLICANT AS TO WHETHER THE APPLICANT
34 IS AN INDIVIDUAL WITH A DISABILITY OR AS TO THE NATURE OR SEVERITY OF THE
35 DISABILITY.

36 B. A COVERED ENTITY MAY:

37 1. MAKE PREEMPLOYMENT INQUIRIES INTO THE ABILITY OF AN APPLICANT TO
38 PERFORM JOB RELATED FUNCTIONS.

39 2. REQUIRE A MEDICAL EXAMINATION AFTER AN OFFER OF EMPLOYMENT HAS BEEN
40 MADE TO A JOB APPLICANT AND BEFORE COMMENCEMENT OF EMPLOYMENT DUTIES OF THE
41 APPLICANT AND MAY CONDITION AN OFFER OF EMPLOYMENT ON THE RESULTS OF SUCH
42 EXAMINATION IF ALL OF THE FOLLOWING APPLY:

43 (a) ALL ENTERING EMPLOYEES ARE SUBJECTED TO THE EXAMINATION REGARDLESS
44 OF DISABILITY.

1 (b) INFORMATION OBTAINED REGARDING THE MEDICAL CONDITION OR HISTORY
2 OF THE APPLICANT IS COLLECTED AND MAINTAINED ON SEPARATE FORMS AND IN
3 SEPARATE MEDICAL FILES AND IS TREATED AS A CONFIDENTIAL MEDICAL RECORD,
4 EXCEPT THAT THE COVERED ENTITY:

5 (i) MAY INFORM SUPERVISORS AND MANAGERS OF NECESSARY RESTRICTIONS ON
6 THE WORK OR DUTIES OF THE EMPLOYEE AND NECESSARY ACCOMMODATIONS.

7 (ii) WHEN APPROPRIATE, MAY INFORM FIRST AID AND SAFETY PERSONNEL IF
8 THE DISABILITY MIGHT REQUIRE EMERGENCY TREATMENT.

9 (iii) ON REQUEST, SHALL PROVIDE RELEVANT INFORMATION TO GOVERNMENT
10 OFFICIALS INVESTIGATING COMPLIANCE WITH THIS ARTICLE.

11 (c) THE RESULTS OF THE EXAMINATION ARE USED ONLY IN ACCORDANCE WITH
12 THIS SECTION.

13 C. A COVERED ENTITY SHALL NOT REQUIRE A MEDICAL EXAMINATION AND SHALL
14 NOT MAKE INQUIRIES OF AN EMPLOYEE AS TO WHETHER THE EMPLOYEE IS AN INDIVIDUAL
15 WITH A DISABILITY OR AS TO THE NATURE OR SEVERITY OF THE DISABILITY, UNLESS
16 THE EXAMINATION OR INQUIRY IS SHOWN TO BE JOB RELATED AND CONSISTENT WITH
17 BUSINESS NECESSITY.

18 D. A COVERED ENTITY MAY:

19 1. CONDUCT VOLUNTARY MEDICAL EXAMINATIONS, INCLUDING VOLUNTARY MEDICAL
20 HISTORIES, THAT ARE PART OF AN EMPLOYEE HEALTH PROGRAM AVAILABLE TO EMPLOYEES
21 AT THAT WORK SITE.

22 2. MAKE INQUIRIES INTO THE ABILITY OF AN EMPLOYEE TO PERFORM JOB
23 RELATED FUNCTIONS.

24 E. INFORMATION OBTAINED PURSUANT TO SUBSECTIONS C AND D REGARDING THE
25 MEDICAL CONDITION OR HISTORY OF ANY EMPLOYEE ARE SUBJECT TO THE REQUIREMENTS
26 PRESCRIBED IN SUBSECTION B, PARAGRAPH 2, SUBDIVISIONS (b) AND (c).

27 F. FOR THE PURPOSES OF THIS SECTION, A TEST TO DETERMINE THE ILLEGAL
28 USE OF DRUGS IS NOT A MEDICAL EXAMINATION.

29 41-1467. Essential job functions

30 UNDER THIS ARTICLE AND ARTICLE 6 OF THIS CHAPTER, IN DETERMINING WHAT
31 FUNCTIONS OF A JOB ARE ESSENTIAL, CONSIDERATION SHALL BE GIVEN TO THE
32 EMPLOYER'S JUDGMENT AS TO WHAT FUNCTIONS OF THE JOB ARE ESSENTIAL, AND IF THE
33 EMPLOYER HAS PREPARED A WRITTEN DESCRIPTION OF THE JOB BEFORE ADVERTISING OR
34 INTERVIEWING APPLICANTS FOR THE JOB, THIS WRITTEN DESCRIPTION IS EVIDENCE OF
35 THE ESSENTIAL FUNCTIONS OF THE JOB.

36 Sec. 7. Section 41-1471, Arizona Revised Statutes, is amended to read:

37 41-1471. Charge by person aggrieved; investigation;
38 conciliation agreement; civil action; temporary
39 relief

40 A. Any person, referred to as the charging party, claiming to be
41 aggrieved by an alleged discriminatory practice or act contrary to the
42 provisions of articles ARTICLE 2 or 3 of this chapter may, within sixty ONE
43 HUNDRED EIGHTY days from the date of the alleged practice or act, file with
44 the division a verified charge in writing. which THE VERIFIED CHARGE shall
45 state the name and address of the person or persons, referred to as

1 respondent, alleged to have committed the practice or act complained of, the
2 particulars of the alleged discrimination and such other information as may
3 be required by the division. After a charge is filed and found to be in
4 proper order, the division shall make an investigation of the allegations
5 contained in the charge. ON ITS OWN INITIATIVE, THE DIVISION MAY FILE A
6 CHARGE TO INVESTIGATE AN ALLEGED DISCRIMINATORY PRACTICE OR ACT.

7 B. If, upon investigation, the division determines that no unlawful
8 discriminatory practice or act has occurred, the division shall notify the
9 charging party and the respondent in writing of this fact and the charging
10 party may within thirty days thereafter file a complaint with the superior
11 court in the county where the alleged discriminatory practice or act
12 occurred.

13 ~~C. If, upon investigation, the division determines that there is~~
14 ~~reasonable cause to believe that the charge is true, it shall endeavor to~~
15 ~~eliminate such alleged unlawful practice through means of conference,~~
16 ~~conciliation or persuasion. Any party to such informal proceeding may be~~
17 ~~represented by counsel. Notwithstanding section 32-261, counsel need not be~~
18 ~~a member of the state bar if he is licensed to practice law in any other~~
19 ~~state or territory of the United States. Nothing said or done during and as~~
20 ~~a part of such endeavors may be made public by the division without the~~
21 ~~written consent of the parties, or used as evidence in a subsequent~~
22 ~~proceeding. Any officer or employee of the board or the division who shall~~
23 ~~make public any information in violation of this subsection shall be~~
24 ~~dismissed for cause.~~

25 ~~D. If the division is unable to eliminate the discriminatory practice~~
26 ~~or act through conference, conciliation or persuasion it shall issue and~~
27 ~~cause to be served upon the respondent a copy of the charge filed with the~~
28 ~~division together with a notice of hearing before the board or subcommittee~~
29 ~~thereof consisting of two or more members, at least one of whom shall be of~~
30 ~~each major political party. The notice shall specify the date, time and~~
31 ~~place of the hearing, and in no event shall the date specified be less than~~
32 ~~ten nor more than twenty days from the date of issuance thereof. The charge~~
33 ~~and notice shall be served on the respondent at least five days before the~~
34 ~~date of the hearing.~~

35 ~~E. The board shall, within thirty days from the date the hearing is~~
36 ~~concluded, enter an order setting forth its findings of fact and serve a copy~~
37 ~~of such findings on all parties. If the respondent fails to correct a~~
38 ~~discriminatory practice or act found by the board to exist, within sixty days~~
39 ~~of such finding, the charging party or the division may file, within thirty~~
40 ~~days thereafter, a complaint in the superior court of the county where the~~
41 ~~discriminatory practice or act is alleged to have occurred.~~

42 ~~F. If the board fails to enter an order setting forth its findings~~
43 ~~within thirty days from the date of the hearing, the charging party may,~~
44 ~~within thirty days thereafter, file a complaint in the superior court of the~~
45 ~~county where the discriminatory practice or act is alleged to have occurred.~~

1 C. IF, AFTER AN INVESTIGATION, THE DIVISION DETERMINES THAT THERE IS
2 REASONABLE CAUSE TO BELIEVE THAT THE CHARGE IS TRUE, THE DIVISION SHALL ENTER
3 AN ORDER CONTAINING ITS FINDINGS OF FACT AND SHALL ENDEAVOR TO ELIMINATE THE
4 ALLEGED UNLAWFUL PRACTICE BY INFORMAL METHODS OF CONFERENCE, CONCILIATION AND
5 PERSUASION. NOTHING SAID OR DONE DURING AND AS PART OF THE INFORMAL
6 ENDEAVORS MAY BE MADE PUBLIC BY THE DIVISION OR ITS OFFICERS OR EMPLOYEES OR
7 USED AS EVIDENCE IN A SUBSEQUENT PROCEEDING WITHOUT THE WRITTEN CONSENT OF
8 THE PERSONS CONCERNED.

9 D. IF, WITHIN THIRTY DAYS AFTER THE DIVISION MAKES A DETERMINATION
10 THAT REASONABLE CAUSE EXISTS TO BELIEVE THAT THE CHARGE IS TRUE, THE DIVISION
11 HAS NOT ACCEPTED A CONCILIATION AGREEMENT TO WHICH THE CHARGING PARTY AND THE
12 RESPONDENT ARE PARTIES, THE DIVISION MAY BRING A CIVIL ACTION AGAINST THE
13 RESPONDENT. IF THE ATTORNEY GENERAL FINDS REASONABLE CAUSE TO BELIEVE THAT
14 A PARTY HAS BREACHED A CONCILIATION AGREEMENT, THE ATTORNEY GENERAL MAY FILE
15 A CIVIL ACTION FOR ENFORCEMENT OF THE AGREEMENT. A CHARGING PARTY MAY FILE
16 ITS OWN CIVIL ACTION AGAINST THE RESPONDENT WITHIN THIRTY DAYS AFTER THE
17 DIVISION HAS ISSUED ITS DETERMINATION OR MAY INTERVENE IN ANY CIVIL ACTION
18 BROUGHT BY THE ATTORNEY GENERAL.

19 ~~G. E. Whenever a charge is filed with the division and IF the~~
20 ~~division concludes on the basis of a preliminary investigation AT ANY TIME~~
21 ~~AFTER THE FILING OF A CHARGE that prompt judicial action is necessary to~~
22 ~~carry out the purposes of this article and articles ARTICLE 2 and OR 3 of~~
23 ~~this chapter, the division may bring an FILE A CIVIL action for appropriate~~
24 ~~temporary or preliminary relief for not more than ninety days or pending~~
25 ~~final disposition of such THE charge by the division. Any temporary~~
26 ~~restraining order or other order granting preliminary or temporary relief~~
27 ~~shall be issued in accordance with the supreme court rules of civil~~
28 ~~procedure. It shall be the duty of The court having jurisdiction over the~~
29 ~~proceedings to SHALL assign such THE action for hearing at the earliest~~
30 ~~practicable date and to SHALL cause the action to be expedited in every way.~~

31 Sec. 8. Repeal

32 Section 41-1472, Arizona Revised Statutes, is repealed.

33 Sec. 9. Title 41, chapter 9, article 5, Arizona Revised Statutes, is
34 amended by adding a new section 41-1472, to read:

35 41-1472. Damages; preventive relief; civil penalties; attorney
36 fees

37 A. IN AN ACTION UNDER SECTION 41-1471, IF THE SUPERIOR COURT FINDS
38 THAT DISCRIMINATION IN VIOLATION OF SECTION 41-1421 OR 41-1442 HAS OCCURRED,
39 THE COURT MAY AWARD:

40 1. ACTUAL AND COMPENSATORY DAMAGES, INCLUDING DAMAGES FOR EMOTIONAL
41 DISTRESS.

42 2. COURT COSTS.

43 3. PREVENTIVE RELIEF, INCLUDING A PERMANENT OR TEMPORARY INJUNCTION,
44 A RESTRAINING ORDER OR ANY OTHER ORDER AGAINST THE PERSON RESPONSIBLE FOR A
45 VIOLATION OF SECTION 41-1421 OR 41-1442.

1 B. IN AN ACTION BROUGHT BY THE ATTORNEY GENERAL, IF THE SUPERIOR COURT
2 FINDS THAT DISCRIMINATION IN VIOLATION OF SECTION 41-1421 OR 41-1442 HAS
3 OCCURRED, THE COURT MAY AWARD:

4 1. ACTUAL AND COMPENSATORY DAMAGES, INCLUDING DAMAGES FOR EMOTIONAL
5 DISTRESS.

6 2. COURT COSTS.

7 3. PREVENTIVE RELIEF, INCLUDING A PERMANENT OR TEMPORARY INJUNCTION,
8 A RESTRAINING ORDER OR ANY OTHER ORDER AGAINST THE PERSON RESPONSIBLE FOR A
9 VIOLATION OF SECTION 41-1421 OR 41-1442.

10 4. IF APPROPRIATE TO VINDICATE THE PUBLIC INTEREST, A CIVIL PENALTY
11 AGAINST THE PERSON RESPONSIBLE FOR THE VIOLATION OF NOT MORE THAN:

12 (a) FIVE THOUSAND DOLLARS FOR A FIRST VIOLATION.

13 (b) TEN THOUSAND DOLLARS FOR ANY SUBSEQUENT VIOLATION.

14 C. IN AN ACTION UNDER SECTION 41-1471, THE COURT SHALL AWARD
15 REASONABLE ATTORNEY FEES TO A PREVAILING PLAINTIFF, OTHER THAN THE ATTORNEY
16 GENERAL. THE COURT SHALL NOT AWARD ATTORNEY FEES TO A PREVAILING DEFENDANT
17 UNLESS THE PLAINTIFF'S COMPLAINT WAS FRIVOLOUS, UNREASONABLE OR WITHOUT
18 FOUNDATION.

19 Sec. 10. Section 41-1491, Arizona Revised Statutes, is amended to
20 read:

21 41-1491. Definitions

22 In this article, unless the context otherwise requires:

23 1. "Aggrieved person" includes any person who either:

24 (a) Claims to have been injured by a discriminatory housing practice.

25 (b) Believes that he will be injured by a discriminatory housing
26 practice that is about to occur.

27 2. "Complainant" means a person, including the attorney general, who
28 files a complaint under section 41-1491.22.

29 3. "Conciliation" means the attempted resolution of issues raised by
30 a complaint or by the investigation of the complaint through informal
31 negotiations involving the aggrieved person, the respondent and the attorney
32 general.

33 4. "Conciliation agreement" means a written agreement setting forth
34 the resolution of the issues in conciliation.

35 ~~8.~~ 5. "Handicap DISABILITY" means a mental or physical impairment
36 that substantially limits at least one major life activity, a record of such
37 an impairment or being regarded as having such an impairment. Handicap
38 DISABILITY does not include current illegal use of or addiction to any drug
39 or illegal or federally controlled substance. Handicap DISABILITY shall be
40 defined as the term is defined by the Americans with disabilities act of 1990
41 (P.L. 101-336).

42 ~~5.~~ 6. "Discriminatory housing practice" means an act prohibited by
43 sections 41-1491.14 through 41-1491.21.

44 ~~6.~~ 7. "Dwelling" means either:

1 (a) Any building, structure or part of a building or structure that
2 is occupied as, or designed or intended for occupancy as, a residency
3 RESIDENCE by one or more families.

4 (b) Any vacant land that is offered for sale or lease for the
5 construction or location of a building, structure or part of a building or
6 structure described by subdivision (a) of this paragraph.

7 ~~7.~~ 8. "Family" includes a single individual.

8 9. "Person" means one or more individuals, corporations, partnerships,
9 associations, labor organizations, legal representatives, mutual companies,
10 joint stock companies, trusts, unincorporated organizations, trustees,
11 receivers, fiduciaries, banks, credit unions and financial institutions.

12 10. "Respondent" means either:

13 (a) The person accused of a violation of this article in a complaint
14 of a discriminatory housing practice.

15 (b) Any person identified as an additional or substitute respondent
16 under section 41-1491.25 or an agent of an additional or substitute
17 respondent.

18 11. "To rent" includes to lease, to sublease, to let or to otherwise
19 grant for a consideration the right to occupy premises not owned by the
20 occupant.

21 Sec. 11. Section 41-1491.05, Arizona Revised Statutes, is amended to
22 read:

23 41-1491.05. Appraisal exemption

24 This article does not prohibit a person engaged in the business of
25 furnishing appraisals of real property from taking into consideration factors
26 other than race, color, religion, sex, handicap DISABILITY, familial status
27 or national origin.

28 Sec. 12. Section 41-1491.15, Arizona Revised Statutes, is amended to
29 read:

30 41-1491.15. Publication of sales or rentals

31 A person may not make, print or publish or cause to be made, printed
32 or published any notice, statement or advertisement with respect to the sale
33 or rental of a dwelling that indicates any preference, limitation or
34 discrimination based on race, color, religion, sex, handicap DISABILITY,
35 familial status or national origin or an intention to make such a preference,
36 limitation or discrimination.

37 Sec. 13. Section 41-1491.16, Arizona Revised Statutes, is amended to
38 read:

39 41-1491.16. Inspection of dwelling

40 A person may not represent to any person because of race, color,
41 religion, sex, handicap, DISABILITY, familial status or national origin that
42 a dwelling is not available for inspection for sale or rental if the dwelling
43 is available for inspection.

1 Sec. 14. Section 41-1491.17, Arizona Revised Statutes, is amended to
2 read:

3 41-1491.17. Entry into neighborhood

4 A person, for profit, may not induce or attempt to induce a person to
5 sell or rent a dwelling by representations regarding the entry or prospective
6 entry into a neighborhood of a person of a particular race, color, religion,
7 sex, ~~handicap~~, DISABILITY, familial status or national origin.

8 Sec. 15. Section 41-1491.19, Arizona Revised Statutes, is amended to
9 read:

10 41-1491.19. Discrimination due to disability; definitions

11 A. A person may not discriminate in the sale or rental or otherwise
12 make unavailable or deny a dwelling to any buyer or renter because of a
13 ~~handicap~~ DISABILITY of:

14 1. That buyer or renter.

15 2. A person residing in or intending to reside in that dwelling after
16 it is sold, rented or made available.

17 3. A person associated with that buyer or renter.

18 B. A person may not discriminate against any person in the terms,
19 conditions or privileges of sale or rental of a dwelling or in the provision
20 of services or facilities in connection with the dwelling because of a
21 ~~handicap~~ DISABILITY of:

22 1. That person.

23 2. A person residing in or intending to reside in that dwelling after
24 it is so sold, rented or made available.

25 3. A person associated with that person.

26 C. Nothing in this section requires that a dwelling be made available
27 to an individual whose tenancy would constitute a direct threat to the health
28 or safety of other individuals or whose tenancy would result in substantial
29 physical damage to the property of others.

30 ~~E.~~ D. Compliance with the appropriate requirements of the fair
31 housing accessibility guidelines established by the United States department
32 of housing and urban development satisfies the requirements of subsection ~~D~~-
33 E, paragraph 3, subdivision (c).

34 ~~D.~~ E. For THE purposes of this section, "discrimination" includes:

35 1. A refusal to permit, at the expense of the handicapped DISABLED
36 person, reasonable modifications of existing premises occupied or to be
37 occupied by the person if the modifications may be necessary to afford the
38 person full enjoyment of the premises, provided that, in the case of a
39 renter, the landlord may, where it is reasonable to do so, condition
40 permission for a modification on the renter agreeing, to restore the interior
41 of the premises to the condition that existed before the modification,
42 reasonable wear and tear excepted.

1 2. A refusal to make reasonable accommodations in rules, policies,
2 practices or services if the accommodations may be necessary to afford the
3 person equal opportunity to use and enjoy a dwelling.

4 3. In connection with the design and construction of covered
5 multifamily dwellings for first occupancy after the date that is thirty
6 months after the date of enactment of the federal fair housing amendments act
7 of 1988 (P.L. 100-430), a failure to design and construct those dwellings in
8 a manner that includes all of the following:

9 (a) The public use and common use portions of the dwellings are
10 readily accessible to and usable by handicapped DISABLED persons.

11 (b) All the doors designed to allow passage into and within all
12 premises within the dwellings are sufficiently wide to allow passage by
13 handicapped DISABLED persons in wheelchairs.

14 (c) All premises within the dwellings contain the following features
15 of adaptive design:

16 (i) An accessible route into and through the dwelling.

17 (ii) Light switches, electrical outlets, thermostats and other
18 environmental controls in accessible locations.

19 (iii) Reinforcements in bathroom walls to allow later installation of
20 grab bars.

21 (iv) Usable kitchens and bathrooms so that an individual in a
22 wheelchair can maneuver about the space.

23 F. As used in this section, "covered multifamily dwellings" means
24 buildings consisting of four or more units if the buildings have one or more
25 elevators and ground floor units in other buildings consisting of four or
26 more units.

27 Sec. 16. Section 41-1491.20, Arizona Revised Statutes, is amended to
28 read:

29 41-1491.20. Residential real estate related transaction;
30 definition

31 A. A person whose business includes engaging in residential real
32 estate related transactions may not discriminate against a person in making
33 a real estate related transaction available or in the terms or conditions of
34 a real estate related transaction because of race, color, religion, sex,
35 handicap DISABILITY, familial status or national origin.

36 B. In this section, "residential real estate related transaction"
37 means:

38 1. Making or purchasing loans or providing other financial assistance
39 either:

40 (a) To purchase, construct, improve, repair or maintain a dwelling.

41 (b) To secure residential real estate.

42 2. Selling, brokering or appraising residential real property.

1 Sec. 17. Section 41-1491.21, Arizona Revised Statutes, is amended to
2 read:

3 41-1491.21. Brokerage services

4 A person may not deny any person access to, or membership or
5 participation in, a multiple listing service, real estate brokers'
6 organization or other service, organization or facility relating to the
7 business of selling or renting dwellings or may not discriminate against a
8 person in the terms or conditions of access, membership or participation in
9 such an organization, service or facility because of race, color, religion,
10 sex, handicap DISABILITY, familial status or national origin.

APPROVED BY THE GOVERNOR JUNE 4, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 4, 2002.

Passed the House February 5, 2002,

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate May 22, 2002,

by the following vote: 16 Ayes,

12 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

H.B. 2353

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 22, 2002

by the following vote: 36 Ayes,

20 Nays, 4 Not Voting

Jake Flake
Speaker of the House
Norman L. Moore
Pro Tempore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

22 day of May, 2002

at 4:20 o'clock P M.

Sandra Taylor
Secretary to the Governor

Approved this 4th day of

June, 2002,

at 10:33 o'clock A M.

Jane Dee Hull
Governor of Arizona

H.B. 2353

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4 day of June, 2002,

at 5:31 o'clock P M.

Robert Taylor
Secretary of State